

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

Secundiono H. Villarreal,

Plaintiff,      Case No. 18-11922

v.

Commissioner of Social  
Security,

Judith E. Levy  
United States District Judge

Mag. Judge R. Steven Whalen

Defendant.

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**ORDER ADOPTING REPORT AND RECOMMENDATION [22]**

This is a Social Security appeal. Before the Court is Magistrate Judge Whalen's August 5, 2019 report and recommendation (ECF No. 22) recommending the Court deny plaintiff Secundiono Villarreal's motion for summary judgment (ECF No. 14) and grant defendant Commissioner of Social Security's motion for summary judgment. (ECF No. 21.) The parties were required to file specific written objections to the report and recommendation within 14 days of service. Fed. R. Civ. P. 72(b)(2); E.D. Mich. L.R. 72.1(d). No objections were filed. The Court has nevertheless

thoroughly reviewed the report and recommendation and concurs in the reasoning and result. Accordingly,

The report and recommendation (ECF No. 22) is ADOPTED with the following modification: The final sentence in the first paragraph on page 14 is amended to read, "The Plaintiff has the burden of proof at steps one through four, but the burden shifts to the Commissioner at step five to demonstrate that there are jobs in the economy which the claimant can perform. *Her v. Commissioner of Social Sec.*, 203 F.3d 388, 391 (6<sup>th</sup> Cir. 1999).";

Plaintiff's motion for summary judgment (ECF No. 14) is DENIED; Defendant's motion for summary judgment (ECF No. 21) is GRANTED; and the findings of the Commissioner are ADOPTED and this case is hereby DISMISSED.<sup>1</sup>

IT IS SO ORDERED.

Dated: September 4, 2019  
Ann Arbor, Michigan

s/Judith E. Levy  
JUDITH E. LEVY  
United States District Judge

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<sup>1</sup> By failing to object to the Report and Recommendation, the parties have waived any further right of appeal. *United States v. Sullivan*, 431 F.3d 976, 984 (6th Cir. 2005).